



David B. Cohen  
Mayor

# CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development  
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Public Hearing Date: June 12, 2007  
Land Use Action Date: T.B.D.  
Board of Aldermen Action Date: August 13, 2007  
90-Day Expiration Date: September 10, 2007

DATE: June 8, 2007

TO: Board of Aldermen

FROM: Michael Kruse, Director of Planning and Development  
Nancy Radzevich, Chief Planner  
Jean Fulkerson, Principal Planner

SUBJECT: **Petition #163-07** BURTON S. KLIMAN/C/S KESSELER, LLC petition for a SPECIAL PERMIT/SITE PLAN APPROVAL for a change of grade in excess of three feet in conjunction with the construction of a single-family home on LOT #3 and a portion of LOT #2 KESSELER WAY, Ward 8, on land known as Sec 82, Blk 37, Lots 83 and 84, containing approximately 23,524 sf of land in a district zoned SINGLE RESIDENCE 3.

CC: Mayor David B. Cohen

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will consider in its discussion at a subsequent Working Session.

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## EXECUTIVE SUMMARY

The petitioners are seeking a special permit for a greater than 3 foot change in grade for lots located within the Kessler Woods subdivision, in the Oak Hill neighborhood. A 5,343 sq. ft. single-family dwelling is proposed for the currently undeveloped Lot 3 off Kessler Way, where the majority of the re-grading work will occur to accommodate a proposed driveway. A small portion of the re-grading is proposed to extend onto the vacant property known as Lot 2 Kessler Way.

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## I. BACKGROUND

The subject properties are located within the "Kessler Woods" subdivision, which was approved by the Planning and Development Board, acting as the Board of Survey, on August 11, 2004. The approved subdivision contains seven lots (Lots 1-7) with access on the new subdivision roadway known as "Kessler Way," and two lots (Lots 8 & 9) with access off of Harwich Road.

In addition, a total of four (4) "Form A" (*Approval Not Required*) lots were created on this previously vacant parcel. Two (2) of these "Form A" lots (Lots J-3A and J-4A) have frontage on both Brookline Street and the new Kessler Way subdivision road. The other two (2) "Form A" lots (Lots J-1 and J-2), only have frontage along Brookline Street.

In 2005 and 2006, the Board of Aldermen granted special permits to allow for grade changes in excess of 3 feet on four other lots within this subdivision: 6 Kessler Way, 7 Kessler Way, 12 Kessler Way, and 17 Kessler Way. Single-family dwellings are either completed or under construction on three of these four lots.

## II. ELEMENTS OF THE PETITION

The petitioners are requesting a special permit to alter the grade of the subject properties by more than 3 feet in order to construct a single-family dwelling in the Kessler Woods subdivision. The petitioners propose to excavate a portion of each site to allow for the construction of a driveway and front walkway. Lot 3 Kessler Way is highest in elevation at the front of the lot and drops off steeply at the rear. The grade will be altered by more than 3 ft. on 2,355 sq. ft. of the 23,524 sq. ft. lot, or approximately 10 percent of the lot area, with a maximum grade change of 9 ft.

Cornerstone Corporation, the co-petitioner and owner of Lot 2 Kessler Way is requesting a special permit to re-grade a 140 sq. ft. portion of that 15,074 sq. ft. lot by a maximum of 5 ft, to appropriately complete the proposed contours at Lot 3 Kessler Way. This is being proposed in order to eliminate the need to construct a temporary wall, at the property line, until the Lot 2 parcel is developed. The area of 3 ft. grade change on Lot 2 represents approximately 1 percent of the total lot area. Cornerstone Corporation is not proposing any development on this lot at this time.

## III. ZONING RELIEF BEING SOUGHT

***Based on the Chief Zoning Code Official's zoning review, dated May 2, 2007 (SEE ATTACHMENT "A"), the petitioners are seeking approval through:***

- > Section 30-5(b)(4), to allow for the placement or removal of sod, loam, clay, gravel or stone, or other solid material, where the existing contours of the land are to be altered by more than three (3) feet;***
- > Section 30-23 for Site Plan Approval, and***
- > Section 30-24(d) for Approval of a Special Permit.***

**IV. SIGNIFICANT ISSUES FOR CONSIDERATION**

*In reviewing this petition, the Board should consider whether the alteration of the grade by more than 3 feet will have any adverse affects on the abutters and/or the character of this site in the context of the surrounding neighborhood.*

**V. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD**

**A. Site**

The 23,524 sq. ft. subject property is located at Lot 3 Kessler Way and is presently part of a vacant wooded site with the exception of the new roadway and subdivision infrastructure, and the three single-family residences located on Kessler Way that are currently under construction, or recently completed. The petitioners intend to construct a two-story single-family dwelling with an attached three-car garage. The lot is highest in elevation at the roadway and drops off in the rear, where a 20 ft. buffer zone is to be maintained in perpetuity. The driveway access to the residence will be from Kessler Way.

Lot 2 Kessler Way is immediately to the north of Lot 3 and contains 15,074 sq. ft. of vacant and undeveloped land.



Lot 3 Kessler Way



Lot 3 Kessler Way and Lot 2 to its right.

B. Neighborhood

The subject property is located near the Brookline/Newton border, in Oak Hill, within a large Single Residence 3 District. The surrounding neighborhood is comprised of single-family dwellings, most of which were constructed in the 1950s. The neighboring parcels range in size from 7,000 sq. ft. to 14,000 sq. ft. in lot area, averaging slightly larger than 10,000 sq. ft. The parcels within the Kessler Woods subdivision are substantially larger, ranging from approximately 15,000 to 25,000 sq. ft.

VI. TECHNICAL ANALYSIS

A. Technical Considerations –Dimensional Controls and Parking

The following table compares the proposed single-family residences to the technical requirements in a Single Residence 3 District.

<b>Single Residence 3</b>	<b>Required</b>	<b>Proposed Residence (Lot 3)</b>
Minimum lot size	10,000 sq. ft.	23,524 sq. ft.
Setbacks		
Front	30 ft.	30.5 ft.
Side	10 ft.	17.8 ft.
Rear	15 ft.	38.6 ft.
Building height	30 ft.	25.1 ft.
Max. # of stories	2V2 stories	2
Floor Area Ratio	0.35	.23
Lot Coverage	30%	17.6 %
Open Space	50%	76.4 %
Number of parking stalls	2 stalls	3
Garage size	700 sq.ft. max.	695 sq. ft.
Driveway width	12 ft. —20 ft.	12.5 ft.

As shown in the table above, the single-family dwelling proposed for Lot 3 will conform to all dimensional requirements of the Zoning Ordinance. No structure is currently proposed on Lot 2.

**B. Commission Reviews**

The subject lot was part of the subdivision plan, which was reviewed and approved by the Conservation Commission (*in addition to the Board of Survey*). Aspects of the site plan, such as the dwelling footprint, grading, and landscaping are altered from what was approved in the original subdivision plan and must subsequently be reviewed by the Conservation Commission. The petitioners filed a request for an amended Order of Conditions, which was reviewed by the Conservation Commission at a public hearing on May 24, 2007.

At their meeting, the Conservation Commission discussed the proposed changes, but stated that their review on this project was limited to the stormwater management plan, in the context of the plan approved for the overall "Kessler Woods" subdivision. After some discussion of the landscape plan, related to the limited use of native species, the Commission indicated that for this lot they could not require more than what had been shown on the approved plan. In lieu of approving a revised landscape plan, the Commission indicated that the landscaping should include, at a minimum, the number and species shown on the approved plan, for this lot. The Commission approved the site engineer plans, based on receipt of a statement from Michael S. Kosmo, PE, dated May 22, 2007, certifying that "... *the proposed plans, dated May 4, 2007, do not change the drainage patterns from the original approved subdivision plans .... and (that) there will be no increase in peak flow for the 100 year storm and the proposed dry well size, location and elevation are as shown on the approved subdivision plans...* " The Commission voted unanimously to issue an

Amended Order of Conditions, based on the revised site engineering plans, subject to the final planting being done in accordance with the approved landscape plans.

C. Relevant Site Plan Approval Criteria

1. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements, including regulation of the number, design and location of access driveways and the location and design of handicapped parking.

A single 12.5 ft. wide driveway entrance is proposed for the site, located as far from the terminus of the cul-de-sac as the lot will allow. The driveway is proposed to be asphalt for approximately the first 30 ft., from the street, then will change to gravel leading up to the entrance of the three-car garage. The construction of the driveway and garage proposed by the petitioners should have no impacts on vehicular or pedestrian safety on-site or in relation to the adjacent streets. The Planning Department believes that the size of the proposed gravel driveway has been kept to a minimum and is appropriately sized for the lot.

Access to single-family dwellings is not typically reviewed by the Fire Department. As such, there is no review memo from the Fire Department.

2. Adequacy of the methods for regulating surface water drainage

As mentioned above, the petitioners appeared before the Conservation Commission on May 24, 2007, and the Commission voted to Amend the Order of Conditions.

The City's Associate Engineer reviewed the petitioners' proposal in the attachment memorandum (*SEE ATTACHMENT "13"*). ***The Associate Engineer noted that the submission did not include drainage calculations and expects these to be submitted to him prior to the working session.***

3. Screening of parking areas and structure(s) on the site from adjoining premises or from the street by walls, fences, plantings or other means.

The petitioners submitted a Tree Removal Plan that indicates a total of 33 trees from Lot 3 and one tree from Lot 2 will be removed (The Planning Department believes the tally on the plan is incorrect by one 10 inch tree). The correct total of caliper inches to be removed is 328 inches. The Planning Department has advised the petitioners that they must comply with the Tree Preservation Ordinance, prior to the issuance of any building permits. ***The petitioners should meet with the City's Tree Warden to review their proposed tree removal and replacement plans prior to the Land Use Committee public hearing.***

The Planning Department is concerned that the landscape plan lacks adequate screening in the rear of the property and believes additional trees should be planted to screen the abutting residents living on Harwich Road. *The*

*petitioners verbally agreed to the **Planning Department to install additional evergreen trees and expects to revise the landscape plans to show this change.***

Although the Conservation Commission reviewed the petitioners' landscape plan on May 24, 2007, they noted in their meeting that they believed they could not ask for more native species planting, beyond what was described on their approved plan. Given the nature of the site and surrounding area, the Planning Department strongly recommends that the landscape plan be revised to include more native species, from the recommended planting list approved by the Conservation Commission.

There is a 20 ft. deep buffer zone at the rear of the property that was agreed to during the subdivision review process with the Board of Survey. No activities may occur on the undeveloped side of the erosion controls, the planted hedges, the stone walls, or the fencing on any of the lots. This area is to remain undisturbed.

***Prior to the working session, the petitioners should submit a revised landscape plan that has been approved by the City's Tree Warden, provides additional landscape screening along the rear of the lot, and overall includes proportional more native species.***

4. Avoidance of major topographical changes; tree and soil removal shall be minimized and any topographic changes shall be in keeping with the appearance of neighboring developed areas

The petitioners are proposing moderate topographical changes and substantial tree removal. The proposed grades on the subject property have been designed to extend into the adjoining property at Lot 2 Kessler Way, which the Planning Department understands is a means to avoid having to construct a temporary retaining wall and to provide an initial transition point from which the developers of the adjacent lot can begin their designs. The Planning Department understands from the Associate City Engineer that this is a reasonable solution for re-grading the site. The contour grades are more appropriately thought of on an area wide basis and should not necessarily end at the property line.

Lot 3 is characterized by a rock ledge that runs along the front property line on Kessler Way. The location of the driveway entrance attempts to avoid the most severe area of ledge. It is unclear if the excavation behind the ledge for the purposes of installing the structure and walkway will require blasting. If blasting is required for the development of any lots on Kessler Way, the owner must first present a blasting plan to the Conservation Commission for review and approval by an independent blasting consultant. Payment for the independent review must be paid by borne by the petitioners. This independent review is in addition to the review by the Newton Fire Department. *The*

*petitioners are expected to provide additional information at the public hearing as to whether or not blasting will be required for construction of the proposed new dwelling.*

Although not specifically documented on the definitive subdivision plan it appears that the proposed structure will actually require less re-grading than what would be required if the structure conformed to the definitive subdivision plan. *The Planning Department understands that the petitioners are prepared to present information at the public hearing comparing the proposed structure with the definitive subdivision plan in terms of both tree removal and 3 foot grade changes.*

The grading that will result at the front of the property, along Kessler Way and the proposed landscaping should provide appropriate screening of the excavated driveway area, and the lower level garage area of the structure should not be visible from the street.

With respect to the number of trees identified for removal, while most are within the footprint or close proximity of the building and driveway, there appear to be several trees designated for removal on the landscape plan that do not appear to conflict with the structure or driveway. ***The petitioners should be expected to provide additional information at the public hearing as to why trees outside of the proposed building footprint are being proposed for removal, particularly those to the west of the new dwelling.***

5. Consideration of site design, including the location and configuration of structures and the relationship of the site's structures to nearby structures in terms of major design elements including scale, materials, color, roof and cornice lines

Although the homes in this subdivision will be large, the lots have been planned to be larger than the average existing neighborhood lots. The development covenants for the subdivision require that all newly constructed single-family dwellings must be a minimum of 3,000 s.f. in size. This home as designed is 5,343 sq. ft.

The proposed design features a streamlined exterior with an emphasis on horizontal expression of the structure, as accentuated by the shiplap siding and window placement. High quality materials are proposed for the exterior finishes, such as red cedar shiplap siding, Kolbe brand windows, and lead covered copper on the chimney and gutters. ***The Planning Department finds that the proposed design of the new dwelling will be an asset to the subdivision, particularly because the architect appears to have thoughtfully designed a building that fits with the existing topography of the site.***

Although not related to this special permit, the approved subdivision includes a self-imposed protective covenant that requires approval of the building design



and site improvements on each lot by a Design Review Committee (created for this subdivision). The petitioner's plans were approved by the Design Review Committee on May 7, 2007. (SEE ATTACHMENT "C").

D. Relevant Special Permit Criteria

1. The specific site is an appropriate location for such use and structure

Although the new dwelling is proposed to be larger than those generally found in the surrounding neighborhood, it should be consistent with the other residences that are already constructed or under construction within this subdivision. The single-family use is appropriate for this location and is consistent with the uses in the surrounding neighborhood. The Planning Department tries to direct petitioners to consider building design and site locations that work with existing contours and minimize site disturbance, and is very supportive of this particular site plan.

2. The use as developed and operated will not adversely affect the neighborhood

The proposed single-family dwelling is appropriately scaled for the neighborhood. The use of high quality materials and the minimal driveway size are both assets of the design.

If drainage is controlled on site, the construction of the proposed single-family dwelling and changes in the topography should not adversely affect the neighborhood. ***The City Engineer will provide comments as to the petitioners' plan to control drainage on site once he has received the required drainage calculations.***

The petitioners' plans include a 20-ft wide. "Buffer Zone" of land along the rear of the lot, which is to remain as an undisturbed natural area and should provide screening from adjacent properties. This buffer area was agreed upon in the subdivision approval documents in order to maintain this area in its natural state for the benefit of the neighborhood. The Buffer Zone is delineated on the subdivision plan as the "limit of work", which means that no activity may take place within the buffer zone.

VII. SUMMARY

The petitioners are proposing to alter the grade by more than 3 feet on each of the subject properties in order to construct a single-family residence and access driveway. The grade will be altered by more than 3 ft. on 2,355 sq. ft. of the lot, or approximately 10 percent of the lot area of Lot 3 with a maximum grade change of 9 ft. The grade change proposed for Lot 2 would alter just 140 sq. ft. of the lot by no more than 5 ft.

The Planning Department notes that the requested grade change is primarily to allow for vehicular access and believes that the petitioners should be commended for designing a structure and engineering the site so as to minimize the amount of alteration to the existing

grade.

The landscape plans indicate that a total of 39 trees will be removed from Lot 3 and 1 tree from Lot 2, however, the petitioners have not provided sufficient information how these trees will be replaced. Further, the Planning Department is concerned that some trees, which appear to be outside of the construction area, are being removed, and suggest that as many existing mature trees be maintained, as possible. In addition, the Planning Department has suggested to the petitioners that additional screening along the rear portion of the lot might help minimize the visual impacts of the new structure on the abutting Harwich Road residents. Also, the Planning Department believes that given the nature of the surrounding properties, that a greater proportion of the proposed landscaping should be native species, in accordance with the list approved by the Conservation Commission.

***Prior to the working session, the petitioners should submit a revised landscape plan that has been approved by the City's Tree Warden, provides additional landscape screening along the rear of the lot, and overall includes proportional more native species. The Petitioners also must submit drainage calculations to the Associate Engineer.***

**ATTACHMENTS:**

ATTACHMENT A: Zoning Review Memorandum, May 2, 2007

ATTACHMENT B: Associate City Engineer, Memorandum dated June 8, 2007

ATTACHMENT C: Design Review Approval, August 7, 2006

## *Zoning Review Memorandum..*

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Dt: May 2, 2007

To: Michael Peirce, representing Burton S. Kliman

CC: John Lojek, Commissioner of Inspectional Services  
Michael Kruse, Director, Department of Planning and Development

Fr: Juris Alksnitis, Chief Zoning Code Official

Re: **Request for approval of grade change in excess of 3 feet.**

**Site:** Kessler Way  
**Zoning:** Single Residence 3

**SBL:** Sect 82, Blck 37, Lot 83 & part Lot 84  
**Lot Area:** L-83: 23,524 sq. ft.  
L-84: 140 sq. ft.

**Current use:** Vacant

**Prop. use:** Single family

### Background:

The subject lot is located near the cul-de-sac of Kessler Way, within a new subdivision created as part of an overall plan to develop a part of the former Edison land, aka Kessler Woods, per subdivision plans titled "Kessler Woods - Definitive Plan of Land, Newton Massachusetts, March 17, 2004, last revised July 19, 2004, Sheets 1 – 8, approved by the Planning Board. Much of this area is also subject to certain Conservation Commission requirements as set out in the Order of Conditions pertaining to project DEP# 239-474, including certain plans subsequently approved by the Commission pursuant to the Order of Conditions including a grading plan and landscape plan (see *Conservation Commission documents*, below for complete reference). In addition, the subdivision is subject to development controls set out in the Kessler Woods Protective Covenants. The applicant having purchased the subject lot seeks to build a single-family home for his family and is subject to the above-referenced Covenants. Due to existing topographical conditions, the applicant anticipates altering the existing grade within his Lot 3 (SBL82-37-83) more than 3 ft., and also within a portion of adjacent Lot 2 (SBL82-37-84), currently still owned by the developer. The proposed grade changes on the subject lots necessitate a special permit/site plan approval per Section 30-5(b)(4).

### Administrative determinations

1. The subject site is comprised of a lot along with a portion of an adjacent lot, where both lots were created after December 7, 1953 and are subject to post-1953 dimensional controls applicable to lots in the SR-3 zone.

2. Section 30-15, Table 1, *Density & Dimensional Controls in Residence Districts and for Residential Uses*, sets forth the applicable density and dimensional controls for new lots in the SR-3 zone. The proposed building meets the applicable controls referenced above. In addition, the required 20 ft. wide neighborhood buffer zone is maintained along the rear lot line.
3. Section 30-15(p) establishes that lots recorded after September 16, 1996 are subject to certain maximum Build Factor (BF) thresholds, depending on the zone wherein located. The attorney for the applicant represents that subject lot has a BF of 7.03 as shown on the approved definitive subdivision plan, which meets the SR-3 BF limit of 20.
4. Sections 30-15(m)(5), 30-19(d)(1), and 30-19(g) set out the applicable provisions as to garages, parking, and drive. Based on submitted plans, the proposed garage and drive meet these requirements.
5. As shown on plan, a 2,355 sq. ft. area in front of the house and adjacent to the garage will be re-graded, thereby altering the grade in excess of 3 ft. In addition, the re-grading will cross the mutual property line with Lot 2, currently undeveloped. An area of approximately 140 sq. ft. will also be re-graded within Lot 2 resulting in a grade change exceeding 3 ft. in order to allow for better topographical transitioning. The current developer-owner of Lot 2 agrees and will be co-petitioner on behalf of Lot 2. This necessitates approval of a site plan and special permit by the Board of Aldermen per Section 30-5(b)(4) for Lot 3 and for a designated portion of Lot 2.
6. Although the proposed dwelling and re-grading will affect a significant portion of Lot 3, the submitted landscape plan does not indicate whether any trees of significant caliper will be removed as part of the anticipated site work. The applicant's attorney represents that tree removal and replacement calculations have been done. Any tree replacement plan must meet the requirements of the Tree Ordinance and secure approval of the Tree Warden.
7. The subject lot is subject to an existing Order of Conditions issued by Conservation Commission. The applicant is responsible for obtaining the approval of the Conservation Commission to the extent proposed work will require an amendment of the existing Order of Conditions. The applicant's attorney indicates that a meeting has been scheduled with the Conservation Commission.
8. The Kessler Woods Protective Covenants are applicable to the subject site. The applicant's attorney represents that the proposed plans have been reviewed, and that the applicant will provide a "Design Review Approval" document. The applicant is responsible for providing this document not later than at the time of filing the petition with the Clerk of the Board of Aldermen.
9. It is noted that a number of submitted plans lack the respective stamps and signatures of applicable registered professionals preparing the plans and certifying required

calculations. The applicant is responsible for providing stamped and signed plans not later than at the time of filing the petition with the Clerk of the Board of Aldermen.

10. See "Zoning Relief Summary" below.

	<b>Building</b>	
	N/A	N/A
	<b>Site</b>	
30-5(b)(4)	Approval to alter existing contours by more than three feet within designated area adjacent to mutual property line with Lot 3.	X
30-23	Site plan approval for proposed area to be re-graded.	X
	<b>Parking</b>	
	N/A	N/A
	<b>Special Permit</b>	
30-24(d)	Approval of special permit for grade change.	
	<b>Building</b>	
	N/A	N/A
	<b>Site</b>	
30-5(b)(4)	Approval to alter existing contours by more than three feet as shown on plan.	X
30-23	Site plan approval, including landscaping.	
	<b>Parking</b>	
	N/A	N/A
	<b>Special Permit</b>	
30-24(d)	Approval of special permit for grade change.	X

Plans and materials reviewed:

- Plan titled "Plan of Land in Newton, MA, Lot 3, Kessler Woods, to Accompany the Petition of Burton S. Kliman, 134 Pond Brook Rd., Newton, MA 02467", dated March 12, 2007, prepared by Everett M. Brooks Co., Surveyors and Engineers, 49 Lexington St., West Newton, MA 02465, stamped and signed by Bruce Bradford, Professional Land Surveyor.
- Plan set titled "Site Plan of Land in Newton, MA, Lot 3, Kessler Woods, Prepared for: Burton S. Kliman, 134 Pond Brook Rd., Newton, MA 02467", Sheets 1 and 2, dated August 19, 2005, revised 10/6/06, prepared by Everett M. Brooks Co., Surveyors and

Engineers, 49 Lexington St., West Newton, MA 02465, bearing no stamp or signature of a registered professional.

- Plan titled "Plan of Land in Newton, MA, Lot 3 - Kessler Woods, Prepared for: Burton S. Kliman, 134 Pond Brook Rd., Newton, MA 02467", dated March 12, 2007, prepared by Everett M. Brooks Co., Surveyors and Engineers, 49 Lexington St., West Newton, MA 02465, stamped and signed by Bruce Bradford, Professional Land Surveyor.
- Plan set titled "Natania & Burton Kliman Residence, Newton, Massachusetts" dated 8/25/06, last revised 1/26/07, prepared by Jeremiah Eck Architects, Inc., 560 Harrison Ave., Suite 403, Boston, MA 02118, stamped and signed by Paul MacNeely, Registered Architect, consisting of the following:
  - Sheet AO – Cover Sheet
  - Sheet A0.1 – Site Plan
  - Sheet A1.0 – Foundation Plan
  - Sheet A1.1 – First Floor Plan
  - Sheet A1.2 – Second Floor Plan
  - Sheet A1.3 – Roof Plan
  - Sheet A2.1 – Building Elevations
  - Sheet A2.2 – Building Elevations
- Plan titled "Kliman Garden, Lot 3, Kessler Woods", dated April 10, 2007, prepared by Howard Garden Designs, Inc., 32 Fairax St., West Newton, MA, bearing no professional stamp or signature.

#### Conservation Commission documents

- Order of Conditions – Kessler Woods Subdivision, DEP#239-474, dated August 31, 2004, issued by the Newton Conservation Commission.
- Plan titled "Kessler Woods – Definitive Plan of Land, Newton, MA, Roadway, Infrastructure & Related Grading Plan", dated 8/6/04, prepared by H.W. Moore Associates, Inc., Engineers & Planners, 112 Shawmut Avenue, Boston, Mass., 02118-229.
- Plan titled "Kessler Woods, Newton, Massachusetts, Schematic Landscape Plan", Drawing L-S, dated October 14, 2004, last revised 11/9/04, prepared by Mary Smith Associates, P.C., Landscape Architects, 30 Chestnut St., Quincy, MA 02169.

**CITY OF NEWTON  
ENGINEERING DIVISION**

**MEMORANDUM**

To: Alderman George Mansfield, Land Use Committee Chairman

From: John Daghlion, Associate City Engineer

Re: Special Permit – Lot 3 Kessler Woods

Date: June 8, 2007

CC: Lou Taverna, PE City Engineer (via email)  
Nancy Radzevich, Chief Planner (via email)  
Linda Finucane, Associate City Clerk (via email)  
Jean Fulkerson, Sr. Planner (via email)

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In reference to the above site, I have the following comments for a plan entitled:

*Site Plan of Land  
Lot 3 Kessler Woods  
Newton, MA  
Prepared by: Everett M Brooks Company  
Dated: May 4, 2007*

3' Grade Change:

- The site plan shows proposed grading on the adjacent lot #2 of approximately 140 square feet in excess of 3 feet; in light of the fact that the owner of Lot #2 is a co-petitioner and in agreement of the proposed grading, the Engineering Division has no objection to this grade change. The two respective deeds should have language drafted and record at the Middlesex Registry of Deeds so that future homeowners are aware of the mutual agreement of the grade change. A copy of the recording instrument and deeds shall be submitted to the Engineering Division, and the City Clerks Offices.

Drainage:

1. An on site soil evaluation needs to be performed to obtain the seasonal high groundwater elevation, percolation rate in accordance to Title V. The proposed drainage system shall be within (20') of the test pit. The proposed drainage system should be 2' above the seasonal high groundwater elevation.
2. Drainage improvements are shown on the site plan however, no drainage study has been submitted to the Engineering Office for review. A drainage analysis needs to be performed based on the City of Newton's 100-year storm event of 7-inches over a 24-hour period. All runoff from impervious areas need to be infiltrated on site, for the respective lots.

Water:

- The proposed service connection will require a new corporation tap. Furthermore, the proposed service connection will be tapped onto an easement located on Lot 4, which would require permission and an easement right for the connection. This easement agreement would have to be record at the Registry of Deed, and a copy of the official instrument shall be submitted to the Engineering Division.

General:

1. All tree removal shall comply with the City's Tree Ordinance.
2. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval.
3. The applicant will have to apply for a Utilities Connecting Permit with the Department of Public Works prior to any construction.
4. The applicant will have to apply for a Building permits with the Department of Inspectional Service prior to any construction.
5. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading.



6. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

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 SECTIONAL SERVICES  
 NEWTON, MA  
 ESSELER WOODS  
 NEWTON, MASSACHUSETTS  
 07 MAY 23 ph 341si=N imam APPROVAL

## ATTACHMENT C

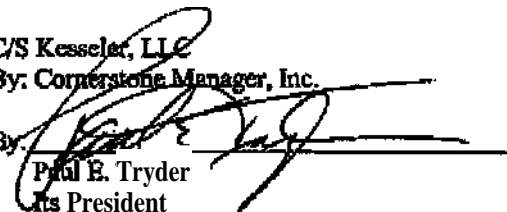
On this .day of **414**, 2002 the undersigned hereby approves the plans submitted on  
 200 for the construction of improvements and structures on Lot **a** by \_\_\_\_\_  
 \_\_\_\_\_ in accordance with the provisions of the Kessler Woods,  
 Newton, Massachusetts Protective Covenants recorded with the Middlesex South Registry of Deeds  
 in Book 44808, Page 337.

Said approval is subject to certification by the undersigned upon the completion of construction that  
 said structures and improvements have been completed substantially in compliance with the herein  
 referenced approved plans.

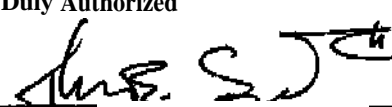
IN WITNESS WHEREOF I have hereunto set my hand and seal this **Z**day of **Z44**, 200 **7**  
 DESIGN REVIEW COMMITTEE:

Declarant:

C/S Kessler, LLC  
 By: Cornerstone Manager, Inc.

By:   
 Paul E. Tryder  
 Its President  
 Duly Authorized

Architect for Declarant:

By:   
 The As f. 5.41046  
 The hP4MV1oa t %MN

## COMMONWEALTH OF MASSACHUSETTS

Suffolk County

\_\_\_\_\_, 200\_\_

On the \_\_tday of AKer, 2002 before me the tmderigned NobuyPublic din  
 parsec\* appeared before me the above named \_\_\_\_\_ and proved to me  
 through satisfactory evidence of identification, which was \_\_\_\_\_ to be the pawn  
 whose name is signed on the preceding or attached document at Lacknowledged to me that he  
 signed it voluntarily for its stated purpose.

[Signature]  
 Notary Public



## COMMONWEALTH OF MASSACHUSETTS

Worcester County77;:a 7, 2002

On the Z day of \_\_\_\_\_ 200\_7 before me the undersigned Notary Public then  
 personally appeared before me above named \_\_\_\_\_ l \_\_\_\_\_ VciltA—and proved to me  
 through satisfactory evidence o \_\_\_\_\_ -Ong which was \_feeAL4114\$1kint e the person  
 whose name is signed on the preceding or attached document and acknowledged to me that he  
 signed it voluntarily for its stated purpose.

